

REMARKS

The Applicants thank the Examiner for the allowance of claims 6 and 7, and for entry of an Examiner's Amendment to rejoin claims 12-14 and to make claims 12-14 depend from both claims 6 and 7.

This Rule 312 Amendment requests amendment to add new claims that would broaden the compound scope. The possibility that such an Amendment might be considered was discussed with the Examiner on July 13, 2010, and of course the Applicants are aware that consideration of this amendment is discretionary. The Examiner indicated that this type of amendment might be considered, provided the amendments do not exceed the scope of the search on which examination was based.

The attached claim listing reflects the rejoinder of claims 12-14 and the change in claim dependencies that were made by the Examiner's amendment, which was authorized by the undersigned in a telephonic interview held on July 8, 2010. It also indicates that claims 1-5, 8-11 and 17-18 are canceled in accordance with the Examiner's amendment.

This Amendment adds new claims 19-21. Claims 19-20 are new independent claims. The major difference between the new claims and the allowed claims is this: the allowed claims require the presence of a saccharide moiety on the nitrogen atom (N) on the phenyl rings in the claimed compounds, while the new claims do not. The new claims are directed to the linker compound prior to adding the saccharide group, so the corresponding nitrogen atom on the phenyl rings in the new claims is -NH_2 .

The compounds claimed in the new claims include the key inventive feature that was discussed during examination, which distinguishes the structures in the allowed claims from ligand conjugates in the prior art. As explained in the last office action response, the claimed invention requires an ethylene oxide (OCH_2CH_2) moiety in at least one part of the linker compound. That is the feature that the Applicants understand to have distinguished the allowed claims from the prior art, and that feature is present in the new claims. The significance of these ethylene oxide groups in

the linking compounds of the new claims (and the allowed claims) is explained in the application. For example, in the second full paragraph on page 5, the specification explains that “introduction of oligoethylene oxide group into the linker section makes it possible for the linker compound to minimize non-specific hydrophobic interaction and to easily adjust” the length of the linker. Thus the (OCH₂CH₂) moiety introduces an unexpected improvement over compounds such as those in the references cited during prosecution, which lack this feature. Claims 19 and 20 both contain this ethylene oxide feature, so it is also included in the compounds of dependent claim 21.

Claim 19 says “X has oligoethylene oxide therein when b is 0.” This limitation requires OCH₂CH₂ to be present in at least one of the two main substructures that form the linker compound in claim 19. If b is 0 (zero), X must include oligoethylene oxide; and if b is NOT 0, the dithiolane portion of the linker compound contains at least one OCH₂CH₂. This claim is supported by original claim 4, and thus adds no new matter.

Claim 20 recites the same dithiolane moiety that is in allowed claim 19, but that moiety is attached to a different ‘X’ group. Unlike claim 19, the ‘X’ group in this claim cannot include the OCH₂CH₂ moiety. Therefore, in claim 20, b is 1-6 (b cannot be zero), so the dithiolane part of the linker compound contains at least one OCH₂CH₂ moiety. This claim is supported by original claim 3, and thus adds no new matter.

Claim 21 limits the dithiolane portion of the linker compound of claims 19 and 20 to the one shown in original claim 20, which is also the one in allowed claims 6 and 15, and is also found in original claim 1. Thus this claim adds no new matter.

The allowed claims include a saccharide moiety attached to a ‘linker compound;’ the new claims are directed to the linker compound without the saccharide. If the original search did not require the saccharide moiety, then no new search would be required for consideration of the new claims. Moreover, if a cursory review of the record is sufficient to determine that the new claims are allowable, efficiencies for both the Office and the Applicant would be achieved.

Applicant is also aware that some of the subject matter within the new claims was present in claims that were canceled in view of a restriction, and that rejoining such subject matter may result in loss of statutory protections associated with restriction practice.

The Applicants would greatly appreciate it if the Examiner would review the scope of the search on which the examination of this application was based to determine whether the scope of the search supports allowance of the new claims. Applicants believe the new claims are allowable for the same reasons that supported the allowance of claims 6-7 if the compounds of the new claims are within the scope of the search: the new claims include the ethylene oxide moiety that the prior art did not contain. As shown by the inventors, this feature provides an unexpected advantage over linker compounds that lack this moiety. Applicants therefore respectfully request consideration and entry of this amendment.

If it is determined that a telephone conference would expedite the review of this amendment, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 247322003700. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: August 27, 2010

Respectfully submitted,

Electronic signature: /Michael G. Smith/
Michael G. Smith

Registration No.: 44,422
MORRISON & FOERSTER LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130-2040
(858) 720-5113